

EXHIBIT 1

INTRODUCTION

Respondent Terry Morgan was, at all times relevant to this matter, a member of the Business License Commission for the City of West Hollywood. He was first appointed on May 17, 1999, and left office on April 1, 2003. Respondent Terry Morgan for West Hollywood City Council (the “Committee”) was the committee established by Respondent Morgan to support his candidacy for city council in the March 6, 2001 election. Respondent Morgan was the treasurer of Respondent Committee.

As an appointed member of the Business License Commission, Respondent was subject to the conflict of interest provisions of Government Code section 84308. This section imposes limitations on the receipt of campaign contributions, and prescribes disclosure and disqualification requirements for members of appointed boards and commissions who make decisions with respect to licenses, permits, or other entitlements for use.

Respondent Morgan violated Government Code section 84308 by accepting a contribution of more than \$250 to his city council campaign from the Argyle Hotel while a matter concerning the Argyle Hotel’s business license was pending before the Business License Commission.

In addition to the Government Code section 84308 violation, Respondent Morgan and Respondent Committee failed to timely file a post-election semi-annual campaign statement following Respondent Morgan’s unsuccessful candidacy for West Hollywood City Council in 2001.

For the purposes of this stipulation, Respondents’ violations of the Political Reform Act (the “Act”)¹ are stated as follows:

COUNT 1: On or about November 15, 2000, Respondent Terry Morgan accepted a campaign contribution of more than \$250 from a party to a proceeding that was pending before the West Hollywood Business License Commission, in violation of section 84308, subdivision (b) of the Government Code.

COUNT 2: Respondents Terry Morgan and Terry Morgan for West Hollywood City Council failed to timely file a semi-annual campaign statement for the reporting period February 18, 2001 through June 30, 2001, by the July 31, 2001 due date, in violation of section 84200, subdivision (a) of the Government Code.

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

SUMMARY OF THE LAW

Conflicts of Interest and Campaign Contributions

One of the express purposes of the Act, as set forth in section 81001, subdivision (b), is that public officials should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of those persons who have supported them.

Section 84308 deals specifically with members of appointed boards or commissions who make decisions in proceedings which involve licenses, permits, or other entitlements for use and receive campaign contributions from persons involved in those proceedings. Section 84308, subdivision (b) prohibits an officer of an agency from soliciting, accepting, or directing campaign contributions of \$250 or more from any party or participant, or agent of a party or participant, while a proceeding is pending before the officer's agency, and for three months following the decision.

Section 84308, subdivision (a) sets forth various definitions for the specific terms used in the prohibitory subdivision (b). A *party* is any person who files an application for, or is the subject of, a proceeding involving a license, permit, or other entitlement for use. A *participant* is any person who is not an actual party, but who actively supports or opposes a particular decision in a proceeding involving a license, permit, or other entitlement for use, and who has a financial interest in the outcome of the decision.

Pursuant to regulation 18438.3, a person is an *agent* of a party to, or a participant in, a proceeding involving a license, permit, or other entitlement for use, only if he or she represents that person in connection with the proceeding involving the license, permit, or other entitlement for use.

Agency means any state or local government agency, as defined in section 82003, excluding the courts or any agency in the judicial branch of government, local government agencies whose members are directly elected by the voters, the Legislature, the Board of Equalization, or constitutional officers. An *officer* is defined in section 84308, subdivision (a) as any elected or appointed officer of an agency, and any candidate for elective office.

A *license, permit, or other entitlement for use* is defined as "all business, professional, trade and land use licenses and permits, and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor or personal employment contracts), and all franchises."

Campaign Disclosure: Duty to File Semi-Annual Campaign Statements

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that receipts and expenditures affecting election campaigns are fully disclosed to the public, so that voters may be better informed, and improper practices may be inhibited. To that end, the Act sets forth a comprehensive campaign reporting system designed to accomplish this purpose

of disclosure.

Section 84200 requires candidates and their controlled committees to file two semi-annual campaign statements each year. The first semi-annual campaign statement covers the reporting period January 1 to June 30, and must be filed by July 31. The second semi-annual campaign statement covers the reporting period July 1 to December 31, and must be filed by January 31 of the following year. Under section 84214, as interpreted by regulation 18404, candidates and their controlled committees may only end their filing obligations by filing a statement of termination.

SUMMARY OF THE FACTS

Respondent Terry Morgan was, at all times relevant to this matter, a member of the Business License Commission for the City of West Hollywood. He was first appointed to the Business License Commission on May 17, 1999, was reappointed on November 5, 2001, and left office on April 1, 2003.

On May 2, 2000, Respondent Morgan formed Respondent Committee to support his candidacy for West Hollywood City Council in the March 6, 2001 election. Respondent Morgan was the treasurer of Respondent Committee. He was unsuccessful in his run for city council.

COUNT 1

On February 2, 2000, there was an item on the Business License Commission agenda pertaining to the Argyle Hotel. The item was an appeal of Commission staff's denial of the dance and entertainment business licenses of the Argyle Hotel due to the hotel's repeated violations of the city's noise ordinance. The members of the Business License Commission voted to approve the dance and entertainment business licenses for the Argyle Hotel, subject to specified conditions. Respondent Morgan participated in, and voted on this matter. The vote was unanimous.

Over the course of the next nine months, there was a series of Business License Commission meetings to monitor the Argyle Hotel's compliance with the conditions for approval of the dance and entertainment business licenses with an eye to modifying those conditions as circumstances warranted.

On November 8, 2000, the Argyle Hotel made a contribution to Respondent Morgan's city council campaign, by issuing a check to "Terry Morgan for WH City Council" in the amount of \$500. Respondent Morgan received the \$500 contribution from the Argyle Hotel on November 15, 2000, and subsequently deposited the contribution into the campaign bank account of Respondent Committee. The contribution was disclosed on Respondent Committee's semi-annual campaign statement, for the reporting period July 1, 2000 through December 31, 2000, as a contribution from the Argyle Hotel.

By accepting a contribution of more than \$250 from a party to a proceeding pending

before the Business License Commission, Respondent Morgan committed a violation of section 84308, subdivision (b).

COUNT 2

As Respondent Morgan was a candidate for city council, he and Respondent Committee were required to file semi-annual campaign statements disclosing Respondent Committee's activities until the committee was terminated.

For the reporting period February 18, 2001 through June 30, 2001, Respondents Morgan and Committee were required to file a semi-annual campaign statement by July 31, 2001. Despite repeated notices from the West Hollywood City Clerk, Respondents Morgan and Committee failed to file a semi-annual campaign statement for the reporting period February 18, 2001 through June 30, 2001, until January 28, 2004, approximately five weeks after Respondent Morgan had been contacted about the statement by Enforcement Division staff. In the semi-annual statement that was eventually filed, Respondents Morgan and Committee reported that Respondent Committee had received contributions totaling \$5,071 and made expenditures totaling \$5,406 during the reporting period February 18, 2001 through June 30, 2001. The campaign statement disclosed that there was a negative cash balance of \$148 in the committee's bank account at the conclusion of the reporting period.

By failing to timely file a semi-annual campaign statement for the reporting period February 18, 2001 through June 30, 2001, by the July 31, 2001 due date, as set forth above, Respondents Morgan and Committee committed a violation of section 84200, subdivision (a).

CONCLUSION

This matter consists of two counts, carrying a maximum administrative penalty of \$2,000 for Count 1 and \$5,000 for Count 2, for a total administrative penalty of \$7,000.

Concerning Count 1, accepting a contribution of more than \$250 from a party to a pending licensing proceeding is a very serious violation of the Act. However, there was no evidence of any connection between the contribution and the November 2000 vote. All the votes concerning the Argyle Hotel were unanimous. Respondent Morgan's disclosure of the contribution from the Argyle Hotel in a campaign statement made it possible for the public to uncover his violation of section 84308. Respondent Morgan claims that he was unaware of the prohibition imposed by section 84308, and no longer holds public office. As such, a somewhat mitigated administrative penalty of \$1,500 is appropriate.

The typical administrative penalty for failing to timely file a semi-annual campaign statement has ranged from \$1,000 to \$2,500 per statement, for violations occurring after January 1, 2001. With regard to Count 2, Respondent Morgan filed the semi-annual campaign statement within a matter of weeks after he was contacted by Enforcement Division staff. The statement revealed that Respondent Committee raised approximately \$5,000 during that reporting period, a third of which was self-funded. Respondent Morgan terminated his committee, and claims that he is now out of politics. As such, an administrative penalty at the lower end of the penalty

range is appropriate.

The facts of this case, including the factors discussed above, justify imposition of the agreed upon penalty of Two Thousand Five Hundred Dollars (\$2,500).